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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,365	04/01/2004	Chi Eng	5106-7CIP2	9779

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Cohen, Pontani, Lieberman & Pavane
551 Fifth Avenue, Suite 1210
New York, NY 10176

EXAMINER

TIEU, BINH KIEN

ART UNIT	PAPER NUMBER
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2614

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04/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/816,365	Applicant(s) ENG ET AL.	
	Examiner BINH K. TIEU	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3,5,8,10-18,25-29 and 31 is/are rejected.
- 7) ☒ Claim(s) 2,4,6,7,9,19-24,30 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/26/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. **6,731,729**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of claimed invention in pending claims 1-24 was already described in the patented claims 1-7 in different wordings.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 3, 5, 8, 25-26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US. Pat. #: 6,345,090) in view of Herman et al. (US. Pat. #: 6,341,353) or Fusz et al. (US. Pat. #: 7,133,835).

Regarding claim 1, Walker et al. (“Walker”) teaches an exchange system for settling accounts of users including buyers and sellers of telecommunication services in a plurality of communications networks, wherein the buyers and sellers input requests and offers using access stations connected to a wide area network, said exchange system comprising:

an exchange server node connectable to the access stations of the buyers and sellers through the wide area network for matching the sellers' offers and the buyers' requests (e.g., conditional purchase offer (CPO) management system 100 as shown in figures 1a and 1b; or CPO management central server 300 as shown in figure 3, col.10, lines 48-56);

at least one switch node for routing telecommunications traffic between the communications networks in response to matched offers and requests (i.e., local switch operator 150 or 115 in figures 1a or 1b, respectively, col.5, line 51 through col.6, line 10);

a database connected to said exchange server node and storing information (i.e., databases 4, col.8, line 57 through col.9, line 34); and

a financial module connected to said exchange server node for processing financial tasks (i.e., the CPO management 100 may have a function for processing transaction tasks such as processing CPOs associated with requested call(s), and billing the calling party on behalf of the accepting interexchange carrier 120, col.11, lines 4-13).

It should be noticed that Walker fails to clearly teach the features of the database storing information including account balances of the exchange system and each of the buyers and sellers. Herman et al. ("Herman") teaches such features in col.6, line 64 through col.7, line 6; or Fusz et al. ("Fusz") teaches in col.5, lines 21-25 and col.10, lines 1-7 for a purpose of quickly and securely processing funds of transactions between different accounts.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of the database storing information including account balances of the exchange system and each of the buyers and sellers, as taught

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by Herman or Fusz, into view of Walker, in order to quickly and securely process funds of transactions between different accounts.

Regarding claim 3, Walker further teaches limitations of the claim in col.9, lines 20-34.

Regarding claim 5, Walker further teaches limitations of the claim in col.10, lines 32-44.

Regarding claim 8, also note Herman teaching limitations of the claim in col.6, line 64 through col.7, line 6; or Fusz teaches in col.5, lines 21-25 and col.10, lines 1-7.

Regarding claim 25, Walker teaches a method of using an online exchange system for settling accounts of users including buyer and sellers of telecommunication services in a plurality of communication networks, wherein the buyers and sellers input requests and offers using access stations connected to a wide area network, the exchange system including an exchange server node connectable to the access stations of the users through the wide area network for matching the sellers' offer and the buyers' requests (e.g., conditional purchase offer (CPO) management system 100 as shown in figures 1a and 1b; or CPO management central server 300 as shown in figure 3, col.10, lines 48-56), said method comprising:

storing account information of the exchange system and each of the buyers and sellers in a database (i.e., databases 4, col.8, line 57 through col.9, line 34);

tracking, by a tracking module connected with the exchange server node, information indicative of buyers' and sellers' usage of the telecommunication services in real time (col.9, lines 20-34 and col.10, line 66 through col.10, line 13).

It should be noticed that Walker fails to clearly teach the features of adjusting, by a financial module connected with the exchange server node, the account balances of the exchange

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system and each of the users stored in the database in real time based on the tracked information. Herman teaches such features in col.6, line 64 through col.7, line 6; or Fusz teaches in col.5, lines 21-25 and col.10, lines 1-7 for a purpose of quickly and securely processing funds of transactions between different accounts.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of the database storing information including account balances of the exchange system and each of the buyers and sellers, as taught by Herman or Fusz, into view of Walker, in order to quickly and securely process funds of transactions between different accounts.

Regarding claim 26, Walker further teaches limitations of the claim in col.9, lines 20-34.

Regarding claim 29, Walker further teaches limitations of the claim in figures 1a or 1b, col.5, line 51 through col.6, line 10.

5. Claims 10-18, 27-28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US. Pat. #: 6,345,090) in view of Herman et al. (US. Pat. #: 6,341,353) or Fusz et al. (US. Pat. #: 7,133,835) as applied to claim 1 above, and further in view of Mandler et al. (US. Pat. #: 5,732,400).

Regarding claim 10, Walker in combinations with Fusz or Herman, fails to clearly teach the features of said financial module including a credit module for scoring and rating the buyers' credit using information from at least one of the financial services node, the external credit node, and said data storage. However, Mandler et al. ("Mandler") teaches such features in col.11, line

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46 through col.12, line 65 for a purpose of rating customers for determining credit and risk levels.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of said financial module including a credit module for scoring and rating the buyers' credit using information from at least one of the financial services node, the external credit node, and said data storage, as taught by Mandler, into view of Walker and Herman or Fusz in order to determine the user's risk and credit levels.

Regarding claims 11-18, Mandler further teaches limitations of the claims in col.13, line 34 through col.12, line 57; and col.16, line 23 through col.17, line 67.

Regarding claims 27-28 and 31, Mandler further teaches limitations of the claims in col.11, line 46 through col.12, line 65.

Allowable Subject Matter

6. Claims 2, 4, 6-7, 9, 19-24, 30 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL CUSTOMER SERVICE FOR THE SUBSTITUTIONS OR COPIES.**

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/ **BINH K. TIEU** /

Primary Examiner
Technology Division 2614

Date: April 2008